

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHELLE L. REYES  
aka MICHELLE LEE MILLER REYES  
aka MICHELLE LEE MILLER  
aka MICHELLE LEE PEDNEAU-MIL  
2505 Lee Ave., #3  
Farmington, NM 87402-1961

Registered Nursing License No. 622207  
PHN Certificate No. 66773

Respondent.

Case No. 2007-165

OAH No. L-2007110437

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on 11-1-08.  
It is so ORDERED 10-2-08.

*LaTranene W Tate*

\_\_\_\_\_  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 RITA M. LANE, State Bar No. 171352  
Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2614  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-165

13 MICHELLE L. REYES  
aka MICHELLE LEE MILLER REYES  
14 aka MICHELLE LEE MILLER  
aka MICHELLE LEE PEDNEAU-MIL  
15 2505 Lee Ave., #3  
Farmington, NM 87402-1961

OAH No. L-2007110437

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Registered Nursing License No. 622207  
17 PHN Certificate No. 66773

18 Respondent.

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
21 above-entitled proceedings that the following matters are true:

22 PARTIES

23 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
24 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
25 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
26 by Rita M. Lane, Deputy Attorney General.

27 2. Respondent Michelle L. Reyes aka Michelle Lee Miller Reyes aka  
28 Michelle Lee Miller aka Michelle Lee Pedneau-Mil (Respondent) is represented in this

proceeding by attorney Fredrick M. Ray, whose address is 770 The City Drive, Suite 8100,  
Orange, CA 92868 ((714) 748-8488.)

3. On or about July 21, 2003, the Board of Registered Nursing issued Registered Nursing License No. 622207 to Respondent. The Registered Nursing License was in full force and effect at all times relevant to the charges brought in Accusation No. 2007-165 and will expire on November 30, 2008, unless renewed.

4. On or about August 19, 2003, the Board of Registered Nursing issued PHN Certificate No. 66773 to Respondent. The PHN Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 2007-165 and will expire on November 30, 2008, unless renewed.

## JURISDICTION

5. Accusation No. 2007-165 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 9, 2007. Respondent filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2007-165 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2007-165. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

1                   8.       Respondent voluntarily, knowingly, and intelligently waives and gives up  
2 each and every right set forth above.

3   CULPABILITY

4                   9.       Respondent admits the truth of each and every charge and allegation in  
5 Accusation No. 2007-165.

6                   10.      Respondent agrees that her Registered Nursing License is subject to  
7 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the  
8 Disciplinary Order below.

9   CONTINGENCY

10                  11.      This stipulation shall be subject to approval by the Board of Registered  
11 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the  
12 Board of Registered Nursing may communicate directly with the Board regarding this stipulation  
13 and settlement, without notice to or participation by Respondent or her counsel. By signing the  
14 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek  
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
18 action between the parties, and the Board shall not be disqualified from further action by having  
19 considered this matter.

20                  12.      The parties understand and agree that facsimile copies of this Stipulated  
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
22 force and effect as the originals.

23                  13.      In consideration of the foregoing admissions and stipulations, the parties  
24 agree that the Board may, without further notice or formal proceeding, issue and enter the  
25 following Disciplinary Order:

26   DISCIPLINARY ORDER

27                   IT IS HEREBY ORDERED that Registered Nursing License No. 622207 issued  
28 to Respondent Michelle L. Reyes aka Michelle Lee Miller Reyes aka Michelle Lee Miller aka

1 Michelle Lee Pedneau-Mil is revoked. However, the revocation is stayed and Respondent is  
2 placed on probation for three (3) years on the following terms and conditions.

3 IT IS FURTHER ORDERED that PHN Certificate No. 66773 issued to Respondent  
4 Michelle L. Reyes aka Michelle Lee Miller Reyes aka Michelle Lee Miller aka Michelle Lee  
5 Pedneau-Mil is revoked. However, the revocation is stayed and Respondent is placed on  
6 probation for three (3) years on the following terms and conditions.

7 **Severability Clause.** Each condition of probation contained herein is a separate  
8 and distinct condition. If any condition of this Order, or any application thereof, is declared  
9 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
10 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
11 and enforceable to the fullest extent permitted by law.

12 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.  
13 A full and detailed account of any and all violations of law shall be reported by Respondent to  
14 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
15 compliance with this condition, Respondent shall submit completed fingerprint forms and  
16 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
17 as part of the licensure application process.

18 **Criminal Court Orders:** If Respondent is under criminal court orders, including  
19 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
20 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

21 2. **Comply with the Board's Probation Program.** Respondent shall fully  
22 comply with the conditions of the Probation Program established by the Board and cooperate  
23 with representatives of the Board in its monitoring and investigation of the Respondent's  
24 compliance with the Board's Probation Program. Respondent shall inform the Board in writing  
25 within no more than 15 days of any address change and shall at all times maintain an active,  
26 current license status with the Board, including during any period of suspension.

27 Upon successful completion of probation, Respondent's license shall be fully  
28 restored.

1                   3.       **Report in Person.** Respondent, during the period of probation, shall  
2 appear in person at interviews/meetings as directed by the Board or its designated  
3 representatives.

4                   4.       **Residency, Practice, or Licensure Outside of State.** Periods of  
5 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
6 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
7 of California. Respondent must provide written notice to the Board within 15 days of any change  
8 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
9 returning to practice in this state.

10                         Respondent shall provide a list of all states and territories where she has ever been  
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
12 provide information regarding the status of each license and any changes in such license status  
13 during the term of probation. Respondent shall inform the Board if she applies for or obtains a  
14 new nursing license during the term of probation.

15                   5.       **Submit Written Reports.** Respondent, during the period of probation,  
16 shall submit or cause to be submitted such written reports/declarations and verification of actions  
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
19 Program. Respondent shall immediately execute all release of information forms as may be  
20 required by the Board or its representatives.

21                         Respondent shall provide a copy of this Decision to the nursing regulatory agency  
22 in every state and territory in which she has a registered nurse license.

23                   6.       **Function as a Registered Nurse.** Respondent, during the period of  
24 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
25 hours per week for 6 consecutive months or as determined by the Board.

26                         For purposes of compliance with the section, "engage in the practice of registered  
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1           The Board may require that advanced practice nurses engage in advanced practice  
2 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
3 Board.

4           If Respondent has not complied with this condition during the probationary term,  
5 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
6 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
7 grant an extension of Respondent's probation period up to one year without further hearing in  
8 order to comply with this condition. During the one year extension, all original conditions of  
9 probation shall apply.

10           7.       **Employment Approval and Reporting Requirements.** Respondent  
11 shall obtain prior approval from the Board before commencing or continuing any employment,  
12 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
13 performance evaluations and other employment related reports as a registered nurse upon request  
14 of the Board.

15           Respondent shall provide a copy of this Decision to her employer and immediate  
16 supervisors prior to commencement of any nursing or other health care related employment.

17           In addition to the above, Respondent shall notify the Board in writing within  
18 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
19 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
20 terminated or separated, regardless of cause, from any nursing, or other health care related  
21 employment with a full explanation of the circumstances surrounding the termination or  
22 separation.

23           8.       **Supervision.** Respondent shall obtain prior approval from the Board  
24 regarding Respondent's level of supervision and/or collaboration before commencing or  
25 continuing any employment as a registered nurse, or education and training that includes patient  
26 care.

27           Respondent shall practice only under the direct supervision of a registered nurse  
28 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative

1 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
2 are approved.

3 Respondent's level of supervision and/or collaboration may include, but is not  
4 limited to the following:

5 (a) Maximum - The individual providing supervision and/or collaboration is  
6 present in the patient care area or in any other work setting at all times.

7 (b) Moderate - The individual providing supervision and/or collaboration is in  
8 the patient care unit or in any other work setting at least half the hours Respondent works.

9 (c) Minimum - The individual providing supervision and/or collaboration has  
10 person-to-person communication with Respondent at least twice during each shift worked.

11 (d) Home Health Care - If Respondent is approved to work in the home health  
12 care setting, the individual providing supervision and/or collaboration shall have person-to-  
13 person communication with Respondent as required by the Board each work day. Respondent  
14 shall maintain telephone or other telecommunication contact with the individual providing  
15 supervision and/or collaboration as required by the Board during each work day. The individual  
16 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
17 site visits to patients' homes visited by Respondent with or without Respondent present.

18 9. **Employment Limitations.** Respondent shall not work for a nurse's  
19 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
20 traveling nurse, or for an in-house nursing pool.

21 Respondent shall not work for a licensed home health agency as a visiting nurse  
22 unless the registered nursing supervision and other protections for home visits have been  
23 approved by the Board. Respondent shall not work in any other registered nursing occupation  
24 where home visits are required.

25 Respondent shall not work in any health care setting as a supervisor of registered  
26 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
27 nurses and/or unlicensed assistive personnel on a case-by-case basis.

28 ///



1 Respondent shall not work as a faculty member in an approved school of nursing  
2 or as an instructor in a Board approved continuing education program.

3 Respondent shall work only on a regularly assigned, identified and predetermined  
4 worksite(s) and shall not work in a float capacity.

5 If Respondent is working or intends to work in excess of 40 hours per week, the  
6 Board may request documentation to determine whether there should be restrictions on the hours  
7 of work.

8 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
9 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
10 than six months prior to the end of her probationary term.

11 Respondent shall obtain prior approval from the Board before enrolling in the  
12 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
13 completion for the above required course(s). The Board shall return the original documents to  
14 Respondent after photocopying them for its records.

15 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with  
16 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
17 reduced amount of \$4,315. Respondent shall be permitted to pay these costs in a payment plan  
18 approved by the Board, with payments to be completed no later than three months prior to the  
19 end of the probation term.

20 If Respondent has not complied with this condition during the probationary term,  
21 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
22 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
23 grant an extension of Respondent's probation period up to one year without further hearing in  
24 order to comply with this condition. During the one year extension, all original conditions of  
25 probation will apply.

26 12. **Violation of Probation.** If Respondent violates the conditions of her  
27 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
28 aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

1           If during the period of probation, an accusation or petition to revoke probation has  
2 been filed against Respondent's license or the Attorney General's Office has been requested to  
3 prepare an accusation or petition to revoke probation against Respondent's license, the  
4 probationary period shall automatically be extended and shall not expire until the accusation or  
5 petition has been acted upon by the Board.

6           13.     **License Surrender.** During Respondent's term of probation, if she ceases  
7 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
8 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
9 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
10 take any other action deemed appropriate and reasonable under the circumstances, without  
11 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
12 will no longer be subject to the conditions of probation.

13                 Surrender of Respondent's license shall be considered a disciplinary action and  
14 shall become a part of Respondent's license history with the Board. A registered nurse whose  
15 license has been surrendered may petition the Board for reinstatement no sooner than the  
16 following minimum periods from the effective date of the disciplinary decision:

17                 (1)     Two years for reinstatement of a license that was surrendered for any  
18 reason other than a mental or physical illness; or

19                 (2)     One year for a license surrendered for a mental or physical illness.

20           14.     **Physical Examination.** Within 45 days of the effective date of this  
21 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or  
22 physician assistant, who is approved by the Board before the assessment is performed, submit an  
23 assessment of the Respondent's physical condition and capability to perform the duties of a  
24 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
25 medically determined, a recommended treatment program will be instituted and followed by the  
26 Respondent with the physician, nurse practitioner, or physician assistant providing written  
27 reports to the Board on forms provided by the Board.

28     ///

1 If Respondent is determined to be unable to practice safely as a registered nurse,  
2 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
3 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
4 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
5 shall immediately cease practice and shall not resume practice until notified by the Board.  
6 During this period of suspension, Respondent shall not engage in any practice for which a license  
7 issued by the Board is required until the Board has notified Respondent that a medical  
8 determination permits Respondent to resume practice. This period of suspension will not apply  
9 to the reduction of this probationary time period.

10 If Respondent fails to have the above assessment submitted to the Board within  
11 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
12 practice until notified by the Board. This period of suspension will not apply to the reduction of  
13 this probationary time period. The Board may waive or postpone this suspension only if  
14 significant, documented evidence of mitigation is provided. Such evidence must establish good  
15 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
16 provided. Only one such waiver or extension may be permitted.

17 **15. Participate in Treatment/Rehabilitation Program for Chemical**  
18 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
19 period or shall have successfully completed prior to commencement of probation a Board-  
20 approved treatment/rehabilitation program of at least six months duration. As required, reports  
21 shall be submitted by the program on forms provided by the Board. If Respondent has not  
22 completed a Board-approved treatment/rehabilitation program prior to commencement of  
23 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
24 a program. If a program is not successfully completed within the first nine months of probation,  
25 the Board shall consider Respondent in violation of probation.

26 Based on Board recommendation, each week Respondent shall be required to  
27 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
28 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed

1 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
2 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
3 such attendance to the Board during the entire period of probation. Respondent shall continue  
4 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
5 mental health examiner and/or other ongoing recovery groups.

6           **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
7 shall completely abstain from the possession, injection or consumption by any route of all  
8 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
9 the same are ordered by a health care professional legally authorized to do so as part of  
10 documented medical treatment. Respondent shall have sent to the Board, in writing and within  
11 fourteen (14) days, by the prescribing health professional, a report identifying the medication,  
12 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the  
13 medication will no longer be required, and the effect on the recovery plan, if appropriate.

14           Respondent shall identify for the Board a single physician, nurse practitioner or  
15 physician assistant who shall be aware of Respondent's history of substance abuse and will  
16 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
17 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
18 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
19 condition. If any substances considered addictive have been prescribed, the report shall identify a  
20 program for the time limited use of any such substances.

21           The Board may require the single coordinating physician, nurse practitioner, or  
22 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
23 addictive medicine.

24           **17. Submit to Tests and Samples.** Respondent, at her expense, shall  
25 participate in a random, biological fluid testing or a drug screening program which the Board  
26 approves. The length of time and frequency will be subject to approval by the Board.  
27 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
28 number at all times. Respondent shall also ensure that messages may be left at the telephone

1 number when she is not available and ensure that reports are submitted directly by the testing  
2 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
3 to the Board by the program and Respondent shall be considered in violation of probation.

4 In addition, Respondent, at any time during the period of probation, shall fully  
5 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
6 tests and samples as the Board or its representatives may require for the detection of alcohol,  
7 narcotics, hypnotics, dangerous drugs, or other controlled substances.

8 If Respondent has a positive drug screen for any substance not legally authorized  
9 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
10 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
11 from practice pending the final decision on the petition to revoke probation or the accusation.  
12 This period of suspension will not apply to the reduction of this probationary time period.

13 If Respondent fails to participate in a random, biological fluid testing or drug  
14 screening program within the specified time frame, Respondent shall immediately cease practice  
15 and shall not resume practice until notified by the Board. After taking into account documented  
16 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
17 Board may suspend Respondent from practice pending the final decision on the petition to  
18 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
19 this probationary time period.

20 18. **Mental Health Examination.** Respondent shall, within 45 days of the  
21 effective date of this Decision, have a mental health examination including psychological testing  
22 as appropriate to determine her capability to perform the duties of a registered nurse. The  
23 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
24 practitioner approved by the Board. The examining mental health practitioner will submit a  
25 written report of that assessment and recommendations to the Board. All costs are the  
26 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
27 result of the mental health examination will be instituted and followed by Respondent.

28 ///

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the effect it will have on my Registered Nursing License and my PHN Certificate. I enter into this

///


///

///

///


1 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
2 to be bound by the Decision and Order of the Board of Registered Nursing.

3 DATED: 5/19/08

4  
5   
6 MICHELLE L. REYES  
Respondent

7  
8 I have read and fully discussed with Respondent Michelle L. Reyes the terms and  
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
10 Order. I approve its form and content.

11 DATED: 5/19/08

12  
13   
14 FREDRICK M. RAY  
Attorney for Respondent


15  
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
18 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
19 Affairs.

20 DATED: 5-20-08

21 EDMUND G. BROWN JR., Attorney General  
of the State of California

22 LINDA K. SCHNEIDER  
23 Supervising Deputy Attorney General

24   
25 RITA M. LANE  
26 Deputy Attorney General

27 Attorneys for Complainant

**Exhibit A**  
**Accusation No. 2007-165**



BILL LOCKYER, Attorney General  
of the State of California  
MARGARET A. LAFKO  
Supervising Deputy Attorney General  
RITA M. LANE, State Bar No. 171352  
Deputy Attorney General  
California Department of Justice  
110 West "A" Street, Suite 1100  
San Diego, CA 92101  
P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2614  
Facsimile: (619) 645-2061  
Attorneys for Complainant

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2007-165

MICHELLE LEE REYES  
aka Michelle Lee Miller Reyes  
aka Michelle Lee Miller  
aka Michelle Lee Pedneau-Miller  
331 1st Street, #A225  
Seal Beach, CA 90740

**A C C U S A T I O N**

Registered Nurse License No. 622207  
PHN Certificate No. 66773

Respondent.

Complainant alleges:

**PARTIES**

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing (Board).
2. On or about July 21, 2003, the Board issued Registered Nurse License Number 622207 to Michelle Lee Reyes aka Michelle Lee Miller Reyes aka Michelle Lee Miller aka Michelle Lee Pedneau-Miller (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on November 30, 2006.

1                   3.       On or about August 19, 2003, the Board issued Public Health Nurse  
2 (PHN) Certificate Number 66773 to Respondent. The PHN Certificate was in full force and  
3 effect at all times relevant to the charges brought herein and expired on November 30, 2006.

4                                   **JURISDICTION**

5                   4.       This Accusation is brought before the Board, under the authority of the  
6 following laws. All section references are to the Business and Professions Code (Code) unless  
7 otherwise indicated.

8                   5.       Section 125.3 of the Code provides, in pertinent part, that the Board may  
9 request the administrative law judge to direct a licentiate found to have committed a violation or  
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
11 and enforcement of the case.

12                   6.       Section 482 of the Code states:

13                         Each board under the provisions of this code shall develop criteria to  
14 evaluate the rehabilitation of a person when:

15                         . . . .

16                         (b) Considering suspension or revocation of a license under Section 490.  
17 Each board shall take into account all competent evidence of rehabilitation  
furnished by the applicant or licensee.

18                   7.       Section 490 of the Code states:

19                         A board may suspend or revoke a license on the ground that the licensee  
20 has been convicted of a crime, if the crime is substantially related to the  
qualifications, functions, or duties of the business or profession for which the  
21 license was issued. A conviction within the meaning of this section means a plea  
or verdict of guilty or a conviction following a plea of nolo contendere. Any  
22 action which a board is permitted to take following the establishment of a  
conviction may be taken when the time for appeal has elapsed, or the judgment of  
23 conviction has been affirmed on appeal, or when an order granting probation is  
made suspending the imposition of sentence, irrespective of a subsequent order  
24 under the provisions of Section 1203.4 of the Penal Code.

25                   8.       Section 493 of the Code states:

26                         Notwithstanding any other provision of law, in a proceeding conducted by  
27 a board within the department pursuant to law to deny an application for a license  
or to suspend or revoke a license or otherwise take disciplinary action against a  
28 person who holds a license, upon the ground that the applicant or the licensee has  
been convicted of a crime substantially related to the qualifications, functions, and

1 duties of the licensee in question, the record of conviction of the crime shall be  
2 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
3 and the board may inquire into the circumstances surrounding the commission of  
4 the crime in order to fix the degree of discipline or to determine if the conviction  
5 is substantially related to the qualifications, functions, and duties of the licensee in  
6 question.

7 As used in this section, "license" includes "certificate," "permit,"  
8 "authority," and "registration."

9 9. Section 2750 of the Code provides, in pertinent part, that the Board may  
10 discipline any licensee, including a licensee holding a temporary or an inactive license, for any  
11 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

12 10. Section 2761 of the Code states:

13 The board may take disciplinary action against a certified or licensed nurse  
14 or deny an application for a certificate or license for any of the following:

15 (a) Unprofessional conduct, which includes, but is not limited to, the  
16 following:

17 . . . .

18 (f) Conviction of a felony or of any offense substantially related to the  
19 qualifications, functions, and duties of a registered nurse, in which event the  
20 record of the conviction shall be conclusive evidence thereof.

21 11. Section 2762 of the Code states:

22 In addition to other acts constituting unprofessional conduct within the  
23 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
24 for a person licensed under this chapter to do any of the following:

25 (a) Obtain or possess in violation of law, or prescribe, or except as  
26 directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
27 himself or herself, or furnish or administer to another, any controlled substance as  
28 defined in Division 10 (commencing with Section 11000) of the Health and Safety  
Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing  
with Section 11000) of the Health and Safety Code, or any dangerous drug or  
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent  
or in a manner dangerous or injurious to himself or herself, any other person, or  
the public or to the extent that such use impairs his or her ability to conduct with  
safety to the public the practice authorized by his or her license.

12. California Code of Regulations, title 16, section 1444 states:

A conviction or act shall be considered to be substantially related to the  
qualifications, functions or duties of a registered nurse if to a substantial degree it

1 evidences the present or potential unfitness of a registered nurse to practice in a  
2 manner consistent with the public health, safety, or welfare. Such convictions or  
acts shall include but not be limited to the following:

3 (a) Assaultive or abusive conduct including, but not limited to, those  
4 violations listed in subdivision (d) of Penal Code Section 11160.

5  
6 (d) Any conviction or act subject to an order of registration pursuant to  
Section 290 of the Penal Code.

7 13. California Code of Regulations, title 16, section 1445 states:

8  
9 (b) When considering the suspension or revocation of a license on the  
10 grounds that a registered nurse has been convicted of a crime, the board, in  
evaluating the rehabilitation of such person and his/her eligibility for a license will  
11 consider the following criteria:

12 (1) Nature and severity of the act(s) or offense(s).

13 (2) Total criminal record.

14 (3) The time that has elapsed since commission of the act(s) or  
offense(s).

15 (4) Whether the licensee has complied with any terms of parole,  
16 probation, restitution or any other sanctions lawfully imposed  
against the licensee.

17 (5) If applicable, evidence of expungement proceedings pursuant to  
18 Section 1203.4 of the Penal Code.

19 (6) Evidence, if any, of rehabilitation submitted by the licensee.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (July 18, 2006 Criminal Conviction for Assault with a Deadly

22 Weapon (Automobile) on April 25, 2006)

23 14. Respondent is subject to disciplinary action under Code sections 490 and  
24 2761(f) based on her conviction of a crime substantially related to the qualifications, functions,  
25 and duties of a registered nurse. The circumstances are as follows.

26 15. On or about April 25, 2006, while under the influence of  
27 methamphetamine, Respondent intentionally drove an automobile directly into an unmarked  
28 police vehicle. While the police officer was conducting an under the influence examination of

1 Respondent, she lunged at the officer's handgun. Respondent admitted to being under the  
2 influence of methamphetamine and stated that her actions were intended to get her shot. because  
3 she could not stand her life and could not deal with it. She admitted to having injected  
4 methamphetamine that morning and a blood test after the accident was positive for  
5 amphetamines.

6 16. On July 18, 2006 in the matter of *People v. Michelle Lee Reyes*, Los  
7 Angeles Superior Court case No. KA074853 Respondent was convicted on her plea of guilty to a  
8 violation of Penal Code section 245 (a) (1) (assault with a deadly weapon), a felony.

9 17. On July 18, 2006 Respondent was sentenced to two years in state prison  
10 with credit for 127 days custody (85 days actual custody), and ordered to pay a restitution fine,  
11 restitution to the Pomona Police Department of \$2,941.47 for the officers' injuries.

## 12 **SECOND CAUSE FOR DISCIPLINE**

13 (Use of Controlled Substance)

14 18. Respondent is subject to disciplinary action under Code section 2762(a) and  
15 (b) for obtaining and using methamphetamine in a manner injurious to herself and others as set  
16 forth in paragraph 15 above.

## 17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
19 alleged, and that following the hearing, the Board issue a decision:

20 1. Revoking or suspending Registered Nursing Number 622207, issued to  
21 Michelle Lee Reyes aka Michelle Lee Miller Reyes aka Michelle Lee Miller aka Michelle Lee  
22 Pedneau-Miller;

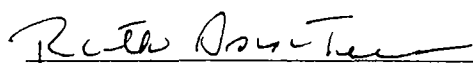
23 2. Revoking or suspending PHN Certificate Number 66773, issued to  
24 Michelle Lee Reyes aka Michelle Lee Miller Reyes aka Michelle Lee Miller aka Michelle Lee  
25 Pedneau-Miller;

26 3. Ordering Michelle Lee Reyes to pay the Board the reasonable costs of  
27 the investigation and enforcement of this case, pursuant to Business and Professions Code  
28 section 125.3; and

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

4. Taking such other and further action as deemed necessary and proper.

DATED: 12/18/06

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

SD2006802399  
80103008.wpd